

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DON WESLEY,

Plaintiff,

VS.

YELLOW TRANSPORTATION, INC.,
C/O THE FRICK CO.,

Defendant.

§
§
§
§
§
§
§
§
§
§

Civil Action No. 3:05-CV-2266-D


ORDER

After making an independent review of the pleadings, files, and records in this case, and the February 28, 2006 findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct and that the magistrate judge's alternate recommendation should be adopted. It is therefore ordered that the findings, conclusions, and alternate recommendation of the magistrate judge are adopted.

The court grants defendant's December 29, 2005 motion to dismiss. Because plaintiff attempted to effect service on defendant and this case was only filed November 18, 2005, the court gives plaintiff until May 1, 2006 to obtain and file a waiver of service from defendant or to effect service on defendant. The court also reminds defendant of its duty under Fed. R. Civ. P. 4(d) to avoid unnecessary costs of serving the summons.

SO ORDERED.

March 30, 2006.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE